IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl.Misc. No.80475-M of 2006
Date of Decision:- 13.12.2007

Sukhwinder Singh etc. ....Petitioner(s)

through
Mr.N.S.Dadwal, Advocate.

vs.

Sunil Kumar ....Respondent(s)

through
Mr.Ajay Tewari, Advocate.

***

CORAM:-HON'BLE MR.JUSTICE SURYA KANT.

***

1) Whether Reporters of the local papers may be allowed to see the judgment?
2) To be referred to the Reporters or not?
3) Whether the judgment should be reported in the Digest?

***

SURYA KANT, J. (ORAL)

The prayer in this petition is for quashing of complaint under Section 138 of the Negotiable Instruments Act, 1881 read with Section 420 IPC (Annexure P-1).

The above-stated complaint has been filed by the respondent, *inter alia,* alleging that a loan of Rs.5 lacs was taken by the accused persons mentioned in the complaint from him and in order to return the same, a cheque bearing No.710088 dated 1.8.2001 in the sum of Rs.5 lacs drawn at Punjab & Sind Bank, Sherpur, District Ludhiana was issued in his favour. Upon presentation, the said cheque was dishonored for want of "sufficient funds".

The petitioners seek quashing of the impugned complaint qua them, *inter alia,* on the ground that the cheque was admittedly signed by Amarjit Singh, who is brother of petitioner No.1 and husband of petitioner

No.2. The petitioners have absolutely no concern with the cheque in question nor did they take any loan from the respondent-complainant.

Notice of motion was issued and in response thereto, the respondent has put in appearance through his learned counsel.

Heard learned counsel for the parties.

It is the conceded position that the cheque in question is signed by Amarjit Singh only and not by the petitioners. There is neither anything on record nor any specific averment in the impugned complaint that any loan was advanced by the complainant to the petitioners also.

In these circumstances, no ingredients of Section 138 of the Act are made out in the impugned complaint qua the petitioners.

Consequently and for the reasons afore-stated, this petition is allowed. The impugned complaint titled as **"Sunil Kumar vs. Amarjit Singh and others"** along with all the proceedings arising therefrom qua the petitioners is hereby quashed.

December 13, 2007 **(SURYA KANT)**
poonam **JUDGE**